IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 6462 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Appellant(s)
Versus
ARJAN KANJIBHAI SORATHIA & 10 - Defendant(s)

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Appearance :
MR HARDIK C RAWAL for Appellant(s) : 1,
MR YATIN SONI for Defendant(s) : 1 - 8.
- for Defendant(s) : 9 - 11.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 18/09/2007

ORAL JUDGMENT

1. **Admit.** Mr. Soni learned Counsel for the original claimants waives service of notice. The presence

of the driver may not be required in view of the order which may be passed by this Court hereinafter. With the consent of the learned Counsel appearing for both the sides, the matter is finally heard.

2. The short facts of the case appear to be that on 3.10.1984 when the deceased was travelling in Jeep bearing Registration No. GAD 5112 from Anjar to Mitha Port, at about 10.00 hours when the Jeep just crossed the railway crossing on Malia road, at that time one S.T. Bus, bearing Registration No. GRR 9171 being driven in rash and negligent manner dashed with the Jeep, and as a result thereof the passengers of the Jeep sustained injuries and one Shantaben ultimately succumbed to the injuries. The claim petition was filed being MACP No. 232 of 1989 for the recovery of the compensation of Rs. 2,00,000/-. The tribunal after adjudication awarded compensation of Rs. 1,87,880/- with the interest at the rate of 15 percent per annum and further ordered that the interest at the rate of 18 percent shall be payable if the amount is not deposited within

period of one month. It is under these circumstances the present appeal before this Court.

3. Heard Mr. Rawal learned Counsel for the appellant and Mr. Soni learned Counsel for the original claimants. Considered the judgement and award of the tribunal.

4. The learned Counsel for the appellant first contended that the quantum awarded by the tribunal after taking into consideration dependency benefits is on higher side and therefore, there is an error committed by the tribunal.

5. The examination of the said contention shows that the tribunal has basically assessed income of the labourer in the year 1984 at Rs. 600/- per month and after taking into consideration prospects and judgement in case of G.M.D.R.T.C., Trivendram vs. Susama Thomas, AIR 1994 S.C. 1631, has doubled income and has deducted Rs. 122/- and has considered dependency benefits at the rate of Rs. 980/- per month for the purpose of computing the compensation, more particularly because there

were six minors children of the deceased and the parents. Keeping in view the number of persons, who were dependent, if the tribunal has considered the dependency benefits at the rate of Rs. 980/-, such an approach on the part of the tribunal cannot be said as unjust or unreasonable.

6. The contention that the interest awarded at the rate of 18 percent, if the amount is not deposited within one month deserves consideration. I would have considered the matter further, however, Mr. Soni learned Counsel for the original claimants has no objection, if the amount is maintained at the rate of 15 percent per annum. It deserves to be recorded that accident is of the year 1984 and the claim is in the year 1989 and the same is decided in the year 1999, therefore the Bank rate of interest prevailing at the relevant point of time was on a higher side than the present prevailing rate of interest in the year 2007. Therefore, if the tribunal awarded interest at the rate of 15 percent per annum, such an approach on the part

of the tribunal cannot be said as unjust or unreasonable, more particularly in view of the reasons recorded by the tribunal at para 13 of the judgement. However, awarding of interest @ 18 percent upon the failure to deposit the amount, can be said as having element of penalty and hence the tribunal ought not to have awarded the same. Since, learned Counsel for the claimants has also agreed for reduction up to 15 percent per annum no further discussion is required. Therefore, interest payable shall be at the rate of 15 percent per annum and not 18 percent per annum as ordered by the tribunal.

7. In view of the aforesaid observation and direction on the aspect of interest, the appeal is partly allowed.

8. The amount if any deposited with this Court, shall be transmitted to the tribunal.

(JAYANT PATEL,J.)

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